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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Nikola Corporation,

10 Plaintiff,

11 v.

12 Trevor R Milton, et al.,

13 Defendants.
14

No. CV-24-00563-PHX-DJH

ORDER

15 Pending before the Court is the filing of a Joint Discovery Dispute between
16 Plaintiff Nikola Corporation (“Nikola”) and Defendant Trevor R. Milton (“Milton”).
17 (Doc. 71). Nikola seeks modification of the parties’ Protective Order (Doc. 49) so that it
18 may use documents identified as “Confidential” by Milton in this matter to collect on a
19 \$165 million judgment it obtained against Milton in *Nikola v. Milton*, No. 2:23-cv-02635-
20 DJH (“Confirmation Action”). Specifically, Nikola seeks to use a list of Milton’s assets
21 so that it may register the judgments in jurisdictions where those assets are located.
22 (Doc. 71 at 2). Defendant Milton argues that modification of the Protective Order is
23 unnecessary and would ignore the reasonable procedures already in place in the
24 Protective Order as it stands. (Doc. 71 at 3). Milton offers no argument as to why
25 Nikola should not be allowed to use the asset list in its collection efforts.

26 Paragraph 15 of the Protective Order states that

27 Confidential Information shall be used solely for the prosecution or defense
28 of this Action. A party that wishes to use Confidential Information and/or
Discovery Material designated “CONFIDENTIAL” or “CONFIDENTIAL

1 – ATTORNEYS’ EYES ONLY” for a purpose other than the prosecution
2 or defense of this Action must request permission, in writing, from the
3 Producing Party. The Receiving Party’s request must identify the
4 Confidential Information that the Receiving Party wishes to use and must
5 identify the purpose for using it. If the parties cannot resolve the question of
6 whether the Receiving Party can use the Confidential Information for the
7 purpose specified within fourteen (14) days of the Producing Party’s receipt
8 of such a request, the Receiving Party may seek the Court’s assistance in
9 resolving the dispute in accordance with the Court’s discovery dispute
10 protocol. Any Confidential Information at issue must be treated as
11 Confidential Information, as designated by the Producing Party, until the
12 Court has ruled on the motion or the matter has been otherwise resolved.

13 (Doc. 49 at 7–8).

14 Nikola states “while ¶ 15 of the PO provides a document-by-document mechanism
15 to seek use of such documents in other matters in piecemeal fashion, modifying the PO to
16 permit Nikola to use such documents in aid of execution would maximize efficiencies
17 and relieve any unnecessary burden on the Court’s time and resources.” (Doc. 71 at 2).
18 Nikola does not expound on how any modification would “maximize efficiencies” nor
19 identify what other documents beyond the list of assets it seeks (or will seek) to aid in its
20 execution efforts. It also does not offer proposed modification language. The request for
21 modification of the Protective Order is therefore denied.

22 The list of assets produced by Milton, however, is unquestionably relevant to
23 Nikola’s execution efforts, and the Court finds good cause to allow Nikola to use the
24 document for that limited purpose. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
25 1122, 1132 (9th Cir. 2003) (stating that litigants in a collateral litigation need to show the
26 relevance of the confidential materials they are seeking). The relevance inquiry hangs on
27 the “degree of overlap in facts, parties, and issues between the suit covered by the
28 protective order and the collateral proceedings.” *Id.*

29 The document that Nikola is seeking to use is a list of assets produced by Milton.
30 (Doc. 71 at 2). The list includes both real and personal property, the location of that
31 property, and any entities in whose name these assets are held. (*Id.*). As a judgment
32 creditor against Milton, this list is highly relevant as it contains information that will


1 allow it to fully collect on its judgment. (Doc. 71 at 2). The collection efforts also
2 involve the same parties and has significant factual overlap. *Compare Nikola v. Milton*,
3 No. 2:23-cv-02635-DJH with *Nikola v. Milton*, No. 2:24-cv-00563-DJH. The
4 Confirmation Action was brought by Nikola to confirm its arbitration award against
5 Milton, and the current action seeks to enjoin Milton from fraudulently transferring assets
6 to avoid Nikola's collection efforts. (*Id.*) Further, Milton having already produced the
7 asset list in the Confirmation Action, Nikola would be entitled to it under post-judgment
8 discovery procedures. *See* Fed. R. Civ. P. 69(a)(2). Duplication of these efforts is simply
9 wasteful and unnecessary under these circumstances. *See Foltz*, 331 F.3d at 1132.

10 Accordingly,

11 **IT IS HEREBY ORDERED** that Plaintiff Nikola be allowed to use the
12 confidential list of assets produced by Defendant Milton in its collection efforts to locate
13 property, real and personal on that list.

14 **IT IS FURTHER ORDERED** that Nikola's request to modify the Protective
15 Order is otherwise denied.

16 Dated this 26th day of November, 2024.

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20 Honorable Diane J. Humetewa
21 United States District Judge
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